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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/139,777 08/25/98 KNEE

R UV-58

EXAMINER

WM02/0410

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KOENIG, A

ART UNIT

PAPER NUMBER

2611

DATE MAILED:

04/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/139,777

Applicant(s)

KNEE ET AL.

Examiner

Andrew Y Koenig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 1998 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because item (9) in Figure 2, a female age range of 20-30, does not correspond to column 11 lines 6-7, (9) female age range of 20-35.

Correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, it is unclear whether the invention stores:

(a) information concerning television channels and stores information concerning programs necessary for determining values for demographic categories, or

(b) information concerning television channels and programs, both of which are necessary for determining values for demographic categories.

As best understood, the former interpretation will be used.

Regarding claim 7, it is unclear whether the determining user values for demographic categories further comprises providing to each television channel and program having a bearing on:

(a) At least one:

1. demographic category a predetermined value indicative of said channel

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2. or program 's indication of how well the user fits said demographic category.

(b) program 's indication of how well the user fits said demographic category or at least one demographic category a predetermined value indicative of said channel.

As best understood, the former interpretation will be used.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1-5, 9-10, and 12-17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,160,570 to Sitnik.

In regards to claims 1, 5, and 12-15, Sitnik teaches a system and method for targeting advertisements to a user of an interactive television program guide. Sitnik shows a receiver which can receive both program guide information (col. 7, lines 25-27) and advertisements with preselected values for demographic categories (col. 8-9, lines 65-4). Sitnik also shows a user input receiver (col. 7, lines 47-57), and a microprocessor which utilizes said user input to determine user values for the demographic categories (col. 6, lines 22-28). Sitnik teaches a memory for storing user values (col. 6, 39-43). On column 2 line 56-65, Sitnik teaches a receiver that selects one advertisement based on a comparison.

Regarding claims 2 and 16, Sitnik shows the use of non-volatile memory (col. 6, lines 41-43)

In respect to claim 3 and 17, Sitnik discloses a remote control as a viable means for a user transmitting device (col. 4, lines 56-59).

As for claim 4, the comparison of the preselected values with said values stored in memory is performed by said microprocessor are taught by Sitnik (col. 6, lines 23-43).

Regarding claim 9, Sitnik provides default values for the demographic categories (col. 8, lines 3-6).

In respect to claim 10, Sitnik provides a period for determining user values for demographic categories (col. 8, lines 8-13).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sitnik in view of U.S. Patent No. 6,177,931 to Alexander et al.

Regarding claim 6, Sitnik discloses the use of an electronic program guide (EPG) at column 7, lines 25-27. Sitnik does not specifically disclose storing "channels and programs" used in defining values for demographic categories. Clearly an EPG contains channel and program information. Sitnik further discloses that user demographic information is collected (col. 7 lines 40-55).

Alexander discloses viewer program analysis in conjunction with an EPG (col. 29 lines 31-35). Therefore, Alexander discloses using an EPG to gather and store

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demographic information derived from user input. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitnik by gathering and storing locally an EPG, which would be "necessary for determining values for demographic categories" taught by Alexander in order to provide to the user a simple and easy to use interface from which demographic information such as channel or program values can be readily determined by the system.

7. Claim 7-8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitnik in view of U.S. Patent No. 5,758,257 to Herz et al.

Regarding claim 7, Sitnik fails to disclose determining user values by channel and program demographic categories, and Herz teaches the determination of user values where the television channel has a predetermined value or the program is indicative of how well the user fits said demographic category (Herz, 21:63-67). Therefore, it would have been obvious to one of ordinary skill in the art to modify Sitnik by adding at least one channel or program demographic category as taught by Herz in order to improve the accuracy of the demographic information.

Regarding claim 8, Sitnik does not teach user values with weight values indicative of the effect said user input has on the user values for the demographic categories. Herz (col. 31-32, lines 63-10) discloses a weight value (Δ) that further defines the user value. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sitnik by using weight values to further customize the value of the user to the actual user.

Regarding claim 11, Sitnik does not teach a decay procedure to refresh user values, however such is taught by Herz (col. 14, lines 4-10). A decay procedure is a refresh cycle that updates the value of the user after an amount of time. It would have been obvious to one having ordinary skill in the art to dynamically adjust the user values over a given period of time to customize the advertisements accordingly in order to provide current up to date demographic data.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 5,446,919 to Wilkins teaches a system that targets ads for a demographically or psychographically defined audience. U.S. Patent 5,515,098 to Carles discloses a device and method for distributing commercial messages to a cable network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (703)306-0399. The examiner can normally be reached on M-Th (7:30 - 5:30), & every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703)305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-6296 for regular communications and (703)308-6306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

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April 5, 2001



ANDREW FAILE
SUPERVISORY PATENT EXAMINER
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